

The University of Arizona Office of Institutional Equity
PROCEDURES FOR INVESTIGATING COMPLAINTS
AND CONDUCTING ADMINISTRATIVE REVIEWS

I. PURPOSE

These procedures are guidelines to assist the Office of Institutional Equity in conducting investigations of issues arising under the University of Arizona's Nondiscrimination and Anti-harassment Policy. The Office of Institutional Equity may amend these procedures from time to time within its discretion.

II. JURISDICTION OF OFFICE OF INSTITUTIONAL EQUITY

The Office of Institutional Equity investigates issues of discrimination, including harassment and retaliation, on the basis of race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, or genetic information, consistent with the Nondiscrimination and Anti-harassment Policy.

III. DEFINITIONS

- A. **Administrative Review.** An investigation by the Office of Institutional Equity made at the request of a University administrator. Two types of administrative reviews are described below under separate headings.
- B. **Complaint.** A written charge filed in accordance with these procedures that alleges a violation of the Nondiscrimination and Anti-harassment Policy.
- C. **Complainant.** A person who files a complaint alleging that they have been the subject of discrimination, including discriminatory harassment or retaliation.
- D. **Discrimination.** Discrimination occurs when an individual, or group of individuals, is treated adversely because they belong to a protected classification of individuals as described in the Nondiscrimination and Anti-harassment Policy. The failure to provide reasonable accommodations required for disability or religious practice may constitute discrimination.

- E. **Harassment.** Harassment is a specific form of discrimination involving unwelcome behavior based on a protected classification, as described in the Nondiscrimination and Anti-harassment Policy.
- F. **Finding.** A determination made by an investigator of the Office of Institutional Equity regarding whether sufficient evidence exists to conclude that a violation of the Nondiscrimination and Anti-harassment Policy has occurred.
- G. **Respondent.** A person against whom a complaint is filed or who is the subject of a Type II Administrative Review.
- H. **Retaliation.** Retaliation is adverse action taken against an individual for engaging in protected activity related to discrimination issues or concerns, as described in the Nondiscrimination and Anti-harassment Policy.

IV. COMPLAINTS BY STUDENTS AGAINST OTHER STUDENTS

When a student makes a complaint alleging discrimination by another student, the complaint shall be referred to the Dean of Students Office for investigation under the Nondiscrimination and Anti-harassment Policy as well as the University's Student Code of Conduct. The investigation of a student's complaint of discrimination by another student shall commence promptly and is expected to be completed within a reasonable time frame. Upon completion of an investigation, the Dean of Students Office investigator will evaluate the evidence in accordance with applicable standards, make a finding regarding the allegations, and issue letters of determination to the Complainant and Respondent, including a finding of whether or not a policy or code violation occurred and reasons for the conclusion reached. In cases involving complaints where discriminatory harassment is found, the investigator shall make recommendations of steps reasonably calculated to end any harassment and to prevent recurrence.

V. OFFICE OF INSTITUTIONAL EQUITY DISCRIMINATION COMPLAINTS

- A. **Who May File a Complaint.** Current or former employees, applicants for employment, applicants for admission to University programs, participants in University-sponsored activities, and other persons affiliated with the University (including students except when the procedure in IV above applies) may file complaints when the conduct alleged is such that if established to be true it would constitute a violation of the Nondiscrimination and Anti-harassment Policy.

B. **Time for Filing a Complaint.** A complaint must be submitted to the Office of Institutional Equity within 180 days of the date of the most recent allegedly discriminatory act. The Director of the Office of Institutional Equity may extend the deadline based on extenuating circumstances.

C. **Requirements of a Complaint.** Although not required to be accepted for filing, the complaint should be on a form provided by the Office of Institutional Equity.

1. **Elements.** Each complaint shall include the following:

- a. The full name and address of Complainant, who must be the individual claiming to be harmed by the discrimination;
 - b. The name of Respondent(s);
 - c. A clear and concise written statement of the facts that constitute the alleged discriminatory act(s), including pertinent dates and sufficient information to identify any other individuals who may provide information during the course of an investigation conducted under these procedures and to bring the matter within the jurisdiction of the Office of Institutional Equity to investigate (an investigator may assist in clarifying and narrowing the Complainant's proposed written statement if it includes allegations that are not within the Office of Institutional Equity's jurisdiction to investigate);
 - d. A statement by Complainant verifying that the information supporting the allegations of discrimination is true and accurate to the best of Complainant's knowledge;
 - e. Complainant's signature; and
 - f. Information that establishes that both Complainant and Respondent(s) have a sufficient relationship to the University to require application of the University's Nondiscrimination and Anti-harassment Policy.
2. **Intake Interview.** The Office of Institutional Equity will typically conduct an interview with Complainant in connection with acceptance of a complaint.
3. **Signature by Office of Institutional Equity Representative and Filing of Complaint.** If the complaint appears to fulfill filing requirements, a designated

staff member in the Office of Institutional Equity shall sign the complaint and provide a copy to the Complainant. A complaint is considered “filed” only after it is signed and accepted by the Office of Institutional Equity.

D. **Complaint Processing.**

1. **Identification of Individuals Involved in an Investigation.** Neither Complainant nor any individual providing information to the Office of Institutional Equity shall be considered a party to the complaint.
2. **Notice to Respondent.** The Office of Institutional Equity will give Respondent reasonable notice of a filed complaint as and when appropriate, including opportunity to provide information in response to the complaint allegations.
3. **Notice to Others Regarding Complaint.** With the exception of Respondents, who may be notified of a filed complaint, including any amendment(s) thereto, and, in the discretion of the Office of Institutional Equity, given a copy of any relevant part of the complaint, only those persons with a legitimate need to know will be apprised of the filing and final disposition of a complaint. Those persons may include, but are not necessarily limited to, appropriate organizational unit administrators (Deans, Department Heads, Directors, or Vice Presidents) who may have an obligation to monitor the environment to ensure that retaliatory action does not occur during or after the investigative process concludes, and who may be required to implement recommendations of the Office of Institutional Equity when it completes its investigation.
4. **Access to Information Regarding the Investigation.** Complainants and Respondents, upon inquiry and during the course of an investigation, may be advised of the status of the investigation.
5. **Amending a Complaint.** If, during the course of investigation, the Office of Institutional Equity determines that more information is required to enable a meaningful investigation, Complainants may be requested to clarify or amplify allegations in the complaint. Complainants may also be allowed to add new Respondents or new discrimination charges related to the original complaint so long as such additions fall within the time limits otherwise applicable to the complaint and are accepted by the Office of Institutional Equity. Respondents will be notified of any amendment(s) to the complaint.

6. ***Dismissal Based Upon Insufficiency of Complaint.*** If a complaint alleges conduct that, if true, would not constitute a violation of the Nondiscrimination and Anti-harassment Policy, the matter is subject to dismissal without further investigation by the Office of Institutional Equity.

E. Investigation of Allegations in Complaint.

1. Following receipt of a complaint, the Office of Institutional Equity acts as a neutral fact-finder.
2. The Office of Institutional Equity may gather statements, documents, and other relevant evidence from Complainant, Respondent, witnesses, and other identified individuals who have or may have information concerning the allegations set forth in the complaint.

F. Findings and Recommendations.

1. Upon completion of an investigation, the Office of Institutional Equity will evaluate the evidence in accordance with the Nondiscrimination and Anti-harassment Policy and related standards and make a policy finding based on a preponderance (the greater weight) of the evidence. The Office of Institutional Equity will issue letters of determination to the Complainant and the Respondent including findings as to whether or not a policy violation occurred. Individuals set forth in paragraph V.D.3 above may receive a copy of the letter of determination and any other information deemed appropriate.
2. If the Office of Institutional Equity finds a policy violation, it will also issue recommendations regarding any sanctions up to and including termination and/or other corrective action deemed appropriate, such as education and training. In cases involving complaints where discriminatory harassment is found, the Office of Institutional Equity shall make recommendations of steps reasonably calculated to end any harassment and to prevent recurrence. The Office of Institutional Equity may also issue recommendations in instances in which investigation revealed conduct within the realm of that for which relief can be sought under the policy, even if not sufficiently severe or pervasive to establish discriminatory harassment under the policy.

- #### **G. Disciplinary Action Taken Following Determination of a Policy Violation.** A Respondent whose conduct results in a finding of a policy violation and against whom disciplinary action is initiated as a result of that finding shall be afforded all applicable process under the *University Handbook for Appointed Personnel*,

Classified Staff Human Resources Policy Manual, Student Code of Conduct, Arizona Board of Regents' Policy Manual, or any other applicable processes.

- H. **Withdrawal of Complaints.** In circumstances deemed appropriate at the discretion and judgment of the Office of Institutional Equity, a Complainant may be permitted to withdraw a pending complaint, but a request to withdraw may also be denied.

VI. OFFICE OF INSTITUTIONAL EQUITY ADMINISTRATIVE REVIEWS

A. Definitions.

1. **Type I Administrative Review.** A Type I Administrative Review is an investigation conducted at the request of an administrator who has concerns that discriminatory actions may be occurring but is not aware of the identity of the specific individual(s) who may be responsible for such conduct.
2. **Type II Administrative Review.** A Type II Administrative Review is an investigation conducted at the request of an administrator who has concerns that specific individual(s) may be engaged in discriminatory actions. If, during a Type I Administrative Review, it appears to the Office of Institutional Equity that specific individual(s) may be responsible for alleged discriminatory actions, the investigation may be considered a Type II Administrative Review.

B. Requesting an Administrative Review.

1. Typically only Deans, Directors, Department Heads, Vice Presidents or the President may request an Administrative Review.
2. Each request for an Administrative Review shall include the name of the administrator initiating the request and the name of Respondent(s), if applicable. The Office of Institutional Equity may seek clarification or amplification of the allegations from the administrator requesting the Administrative Review.

C. Administrative Review Process.

1. **Identification of Respondent(s).** Where a particular individual is identified as engaging in conduct claimed to be discriminatory, the Office of Institutional

Equity shall, as feasible, give the individual notice of the administrative review and the opportunity to respond and provide information about the complaint allegations, particularly when disciplinary action is a potential outcome for the individual in the event the Office of Institutional Equity finds a policy violation.

2. ***Notice to Others Regarding Administrative Review.*** With the exception of identified Respondents, only persons with a legitimate need to know will be apprised of a request for an Administrative Review or final disposition of such an investigation and review process. Those persons may include, but are not limited to, appropriate organizational unit administrators (Deans, Department Heads, or Vice Presidents) who may have an obligation to monitor the environment to ensure that retaliatory action does not occur during the investigation or after the investigative process concludes, and who may be required to implement recommendations of the Office of Institutional Equity.

3. ***Role of Office of Institutional Equity.***
 - a. Following receipt of a request for an Administrative Review, the Office of Institutional Equity acts as a neutral fact-finder.

 - b. The Office of Institutional Equity may gather statements, documents, and other relevant evidence from Complainant, Respondent, witnesses, and other identified individuals who have or may have information concerning the allegations set forth in the complaint.

4. ***Findings and Recommendations.***
 - a. Upon completing investigation of a Type I or Type II Administrative Review, the Office of Institutional Equity will evaluate the evidence in accordance with the Nondiscrimination and Anti-harassment Policy and related standards and make a policy finding based on a preponderance of the evidence, also issuing a letter of determination to the requesting administrator which includes a finding of whether a policy violation occurred and any information deemed appropriate.

 - b. In a Type II Administrative Review, the Office of Institutional Equity issues a letter of determination to the requesting administrator and also to any Respondent who was notified in the matter, including a finding of whether a policy violation occurred and any other information deemed appropriate.

- c. Where a policy violation is found in a Type II Administrative Review, the Office of Institutional Equity also makes recommendations regarding any sanctions up to and including termination and/or other corrective action deemed appropriate, such as education and training. If discriminatory harassment is found, these recommendations include steps reasonably calculated to end any harassment and to prevent recurrence. The Office of Institutional Equity may also issue recommendations in instances in which investigation revealed conduct within the realm of that for which relief can be sought under the policy, even if not sufficiently severe or pervasive to establish discriminatory harassment under the policy.

D. Closure.

1. A Type I investigation shall conclude and the Administrative Review shall be closed when the Office of Institutional Equity issues a letter of determination to the administrator requesting the Administrative Review.
2. A Type II investigation shall conclude and the Administrative Review shall be closed when the Office of Institutional Equity issues a letter of determination to the requesting administrator and to any Respondent who was notified of the matter.
3. A matter also may be closed administratively when the Office of Institutional Equity decides that further investigation is either impossible or unnecessary.

- E. Withdrawal of Requests for Administrative Review.** In appropriate circumstances, at the discretion and judgment of the Office of Institutional Equity, an administrator may be permitted to withdraw a request for review, but a request to withdraw may also be denied.

VII. INFORMATION RELATED TO COMPLAINTS AND INVESTIGATIONS

- A. Confidentiality.** The Office of Institutional Equity seeks to maintain and respect the confidentiality of information obtained during the course of an investigation to the extent feasible. Disclosure may occur in some circumstances, including for investigation and evidence-gathering purposes and in order to notify individuals of the outcome of an investigation. Other situations where disclosure may occur include, but are not limited to, required compliance with an obligation imposed on the University by law or facilitation of other legitimate University processes.

B. Complaints Filed with Outside Agencies. The University acknowledges that individuals have rights to file complaints with external agencies at any time within that agency's deadlines, and that those complaints may be filed concurrently with complaints that are filed with the Office of Institutional Equity. The fact that a complaint is filed with an external agency typically will not deter investigation of a complaint filed with the Office of Institutional Equity concerning the same or similar events so long as that complaint is filed in a timely manner and accepted for investigation within Office of Institutional Equity procedures.

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